

ESTTA Tracking number: **ESTTA1146245**

Filing date: **07/13/2021**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cleveland Indians Baseball Company, LLC
Granted to Date of previous extension	07/14/2021
Address	2401 ONTARIO STREET CLEVELAND, OH 44115 UNITED STATES
Attorney information	MARY L. KEVLIN / MARYANN LICCIARDI COWAN, LIEBOWITZ & LATMAN, P.C. 114 WEST 47TH STREET NEW YORK, NY 10036 UNITED STATES Primary Email: trademark@cll.com Secondary Email(s): mlk@cll.com, mel@cll.com, jik@cll.com, las@cll.com 212-790-9200
Docket Number	21307-028

Applicant Information

Application No.	90050485	Publication date	03/16/2021
Opposition Filing Date	07/13/2021	Opposition Period Ends	07/14/2021
Applicant	Tedesco, Frank Anthony 1090 SOUTH COLLIER BLVD UNIT 716 MARCO ISLAND, FL 34145 UNITED STATES		

Goods/Services Affected by Opposition


Class 041. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Entertainment services in the nature of professional athletes competing in Baseball

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b), 44(e) or 66(a)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disreputable	Trademark Act Section 2(a)


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Other	Common law priority and likelihood of confusion


Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1287632	Application Date	06/01/1981
Registration Date	07/31/1984	Foreign Priority Date	NONE
Word Mark	CLEVELAND INDIANS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 006. First use: First Use: 1973/03/00 First Use In Commerce: 1973/03/00 Metal License Plate Holders and Key Chains</p> <p>Class 014. First use: First Use: 1972/07/00 First Use In Commerce: 1972/07/00 Jewelry-Namely, Key Chains, Pins, Earrings, [Tie Tacks, Tie Bars, Brooches,] All Being Made of Precious Metal; and Bracelets, Chains, Charms [and Rings]</p> <p>Class 016. First use: First Use: 1972/04/00 First Use In Commerce: 1972/04/00 Paper Goods and Printed Matter-Namely, Pictures; Sports Programs; Postcards; Picture Sets; [Newspaper Reprints;] Posters; Baseball Cards; Pens; Pencils; Pen and Pencil Sets; Decals; [Paint Brushes; Educational Painting Sets Composed of a Brush, Paint, Decals and a Baseball Figure Statue; and] Press Guides Composed of One or More of Brief Biography of Current Players, Statistics of Current Players, Team Records, Individual Records and General Information of the Team Organization</p> <p>Class 018. First use: First Use: 1973/03/00 First Use In Commerce: 1973/03/00 Luggage-Namely, Travel/Shaving Bags Sold Empty, Tote Bags, Backpacks and Duffle Bags</p> <p>Class 020. First use: First Use: 1972/04/00 First Use In Commerce: 1972/04/00 Seat Cushions, Pillows, [Trophies, Novelty Display Boards with Magnetic Baseball Team Badges for Attachment Thereto, and] Novelty Items-Namely, Miniature Bats and Miniature Baseball Helmets, and Ornamental Novelty Buttons</p> <p>Class 021. First use: First Use: 1973/03/00 First Use In Commerce: 1973/03/00 Glassware-Namely, Plastic, Glass and Ceramic Tumblers, Glasses and Mugs; and Domestic Containers-Namely, Waste Baskets</p> <p>Class 022. First use: First Use: 1973/03/00 First Use In Commerce: 1973/03/00 [Laundry Bags]</p> <p>Class 024. First use: First Use: 1972/00/00 First Use In Commerce: 1972/00/00 Pennants</p> <p>Class 025. First use: First Use: 1972/00/00 First Use In Commerce: 1972/00/00 Clothing-Namely, Bibs, Infant Pajamas and Clothing for Children and Adults-Namely, T-Shirts, Sweatshirts, Tank Tops, Wind Resistant Jackets, Jackets, [Suits,] Pants, Shorts, Jerseys, Shirts, Sweaters, Neckties, Robes, Hats, Baseball Caps, [Wristbands] and Sun Visors</p> <p>Class 026. First use: First Use: 1971/06/00 First Use In Commerce: 1971/06/00 Embroidered Patches for Clothing, [Latch Hook Rug Canvasses, Brooches Not Made of Precious Metal, and Needlepoint Kits Consisting of Canvas, Yarn and</p>		

	<p>Needles]</p> <p>Class 028. First use: First Use: 1970/00/00 First Use In Commerce: 1970/00/00 Toys and Sporting Goods-Namely, Toy Banks, Helmets, Bats, Balls, Inflatable Bats and Balls, Dolls, Helmet Buggies Consisting of a Four-Wheel Toy that Looks Like a Golf Cart with a Baseball Cap as a Roof, and Baseball Holders Consisting of a Stand with a Clear Plastic Dome Intended to Hold a Baseball</p> <p>Class 034. First use: First Use: 1971/00/00 First Use In Commerce: 1971/00/00 [Ashtrays and] Cigarette Lighters</p> <p>Class 041. First use: First Use: 1915/00/00 First Use In Commerce: 1915/00/00 Entertainment Services-Namely, Providing Baseball Exhibitions</p>
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U.S. Registration No.	3776353	Application Date	03/08/2006
Registration Date	04/13/2010	Foreign Priority Date	NONE
Word Mark	CLEVELAND BLUES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2010/01/13 First Use In Commerce: 2010/01/13 Clothing, namely, shirts, T-shirts		

U.S. Registration No.	3776354	Application Date	03/08/2006
Registration Date	04/13/2010	Foreign Priority Date	NONE
Word Mark	CLEVELAND NAPS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2010/01/13 First Use In Commerce: 2010/01/13 Clothing, namely, shirts, T-shirts		

U.S. Registration No.	3886573	Application Date	02/28/2007
Registration Date	12/07/2010	Foreign Priority Date	NONE
Word Mark	CLEVELAND BRONCHOS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2010/09/29 First Use In Commerce: 2010/09/29 Clothing, namely, shirts, T-shirts		

U.S. Registration No.	3994891	Application Date	04/27/2010
Registration Date	07/12/2011	Foreign Priority Date	NONE
Word Mark	CIC I CLEVELAND INDIANS I CHARITIES		
Design Mark			
Description of Mark	The mark consists of a stylized design of a baseball mitt which depicts in its center a heart design with baseball stitching and along the pinky finger the letters "CIC", all of which is surrounded by the stylized wording "CLEVELAND INDIANS CHARITIES" and Stylized "I" logo.		
Goods/Services	Class 036. First use: First Use: 2010/03/01 First Use In Commerce: 2010/03/01		

	Charitable fund raising services; charitable fund raising services for community-based charities; raising, receiving and distributing charitable funds by means of special events; charitable fund raising services, namely, conducting fundraising drives, auctions, and raffles; charitable fund raising services by means of collecting non-perishable food, clothing, money, and sports equipment for charitable donation
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U.S. Registration No.	4000824	Application Date	05/13/2010
Registration Date	07/26/2011	Foreign Priority Date	NONE
Word Mark	CLEVELAND		
Design Mark			
Description of Mark	The mark consists of the word "CLEVELAND" in stylized text.		
Goods/Services	Class 025. First use: First Use: 1994/12/31 First Use In Commerce: 1994/12/31 Clothing and headwear, namely, shirts, jerseys, sweatshirts and hats; all of the foregoing relating to baseball or a baseball team		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CLEVELAND, including in distinctive stylizations, alone or with other word, letter and/or design elements		
Goods/Services	baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, entertainment services in the nature of professional athletes competing in baseball; apparel; jewelry; toys and sporting goods; paper and printed matter and novelty items		

Attachments	73312684#TMSN.png(bytes) 78831988#TMSN.png(bytes) 78831994#TMSN.png(bytes) 77119018#TMSN.png(bytes) 85023954#TMSN.png(bytes) 85037249#TMSN.png(bytes) NOO Letter to Commissioner - CLEVELAND SQUIRES.pdf(59881 bytes) Cleveland Squires NOO.pdf(31217 bytes)
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Signature	/Justin I. Karasick/
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Name	MARY L. KEVLIN / MARYANN LICCIARDI
Date	07/13/2021



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July 13, 2021

By Electronic Filing

Commissioner for Trademarks
Attn: TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Cleveland Indians Baseball Company, LLC
Opposition Against: Frank Anthony Tedesco
Application to register:
CLEVELAND SQUIRES
Ref. No. 21307.028

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial No. 90/050,485, published in the Official Gazette on March 16, 2021. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$600 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Justin I. Karasick/
Justin I. Karasick

Enclosures

cc: Mary L. Kevlin, Esq. (w/encs.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 90050485
Filed: July 13, 2020
For Mark: CLEVELAND SQUIRES
Published in the Official Gazette: March 16, 2021

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CLEVELAND INDIANS BASEBALL COMPANY, :	
LLC, :	Opposition No.
Opposer, :	
v. :	<u>NOTICE OF OPPOSITION</u>
FRANK ANTHONY TEDESCO, :	
Applicant. :	
-----X	

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Cleveland Indians Baseball Company, LLC (“Opposer”), an Ohio limited liability company, with offices at 2401 Ontario Street, Cleveland, Ohio 44115, believes that it will be damaged by registration of the standard character word mark CLEVELAND SQUIRES (“Applicant’s Mark”) in International Class 41 for “Entertainment services in the nature of professional athletes competing in Baseball” (“Applicant’s Services”) as shown in Application Serial No. 90050485 (the “Application”), and having been granted an extension of time to oppose up to and including July 14, 2021, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned CLEVELAND INDIANS MAJOR LEAGUE BASEBALL club (the “Club”). The Club’s home ballparks have been located in Cleveland, Ohio for over a century.

2. Since long prior to July 13, 2020, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the names or marks CLEVELAND, including in distinctive stylizations, alone or with other word, letter and/or design elements ("Opposer's CLEVELAND Marks"), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, entertainment services in the nature of professional athletes competing in baseball; apparel; jewelry; toys and sporting goods; paper and printed matter and novelty items.

3. Opposer owns U.S. federal registrations for Opposer's CLEVELAND Marks in International Classes 6, 14, 16, 18, 20, 21, 24, 25, 26, 28, 34, 36 and 41, namely, Registration Nos. 1287632; 3776353; 3776354; 3886573; 3994891 and 4000824. Registration Nos. 1287632 and 4000824 are incontestable.

4. Since long prior to July 13, 2020, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have extensively promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's CLEVELAND Marks that are an integral part of Opposer's names and identity, in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, entertainment services in the nature of professional athletes competing in baseball; apparel; jewelry; toys and sporting goods; paper and printed matter and novelty items, and have offered such goods and rendered such services in commerce.

5. As a result of the extensive sales and promotion of its goods and services bearing or offered in connection with Opposer's CLEVELAND Marks, Opposer has built up highly

valuable goodwill in Opposer's CLEVELAND Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On July 3, 2020, Opposer announced that it was going to evaluate whether to change the Club's nickname, an announcement that fueled extensive publicity and speculation about what new nicknames the Club might consider.

7. Squire's Castle is a historic castle located in the Cleveland, Ohio metropolitan area, and is part of the Cleveland Metroparks system. Upon information and belief, the popularity of the castle and its association with the Cleveland metropolitan area led to public speculation that CLEVELAND SQUIRES may be an apt new name for the Club.

8. On July 13, 2020, shortly after Opposer's announcement that it was going to evaluate whether to change the Club's nickname, Applicant filed the Application.

9. The CLEVELAND element in Applicant's Mark is identical to Opposer's CLEVELAND Marks and is positioned as the first word of Applicant's Mark, similar to Opposer's CLEVELAND-formative marks.

10. As Applicant's Mark is a standard character mark, the "CLEVELAND" element could cover any stylization, including stylizations similar to Opposer's CLEVELAND Marks, which have priority of use and/or registration over Applicant's Mark.

11. Applicant's Services are identical and/or closely related to the services rendered in connection with Opposer's CLEVELAND Marks.

12. Because Opposer is the only professional baseball club in Cleveland, Ohio (or any other American city named Cleveland), Applicant's Mark, a combination of CLEVELAND and SQUIRES, a term associated with Cleveland, in connection with Applicant's Services, will be understood and, upon information and belief, is intended by Applicant to be understood, as uniquely referring to Opposer and its Club.

13. Upon information and belief, Applicant did not use Applicant's Mark for Applicant's Services in the United States prior to his constructive first use date of July 13, 2020.

14. Upon information and belief, the Application was filed in order to secure rights in a mark that might be under consideration by Opposer in choosing a new name for the Club, and as such Applicant lacked a *bona fide* intent to use Applicant's Mark in connection with Applicant's Services.

15. Several facts establish Applicant's bad faith motive in filing the Application:

- (i) Applicant filed the Application for CLEVELAND SQUIRES shortly after Opposer's July 3, 2020 announcement that it was going to evaluate a name change and that led to speculation among the public and media about what the new name might be;
- (ii) Applicant coupled the word CLEVELAND with SQUIRES, a term associated with Cleveland, Ohio;
- (iii) Applicant's Services cover baseball game entertainment services, the core services of Opposer, which strongly indicates an intent to reserve rights in the mark and the category of services that would be of most interest to Opposer; and

- (iv) Moreover, Applicant's Services specifically cover "Entertainment services in the nature of professional athletes competing in Baseball" (emphasis added). Given that Opposer is the only professional baseball club in Cleveland, Ohio (or any other American city named Cleveland), Applicant's appropriation of Opposer's CLEVELAND Marks in connection specifically with professional baseball services further evidences Applicant's bad-faith adoption of Applicant's Mark.

16. Applicant's Mark so resembles Opposer's CLEVELAND Marks as to be likely, when used in connection with Applicant's Services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's Services have their origin with Opposer and/or that such services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant a certificate of registration for Applicant's Mark.

17. Opposer would be further injured by the granting of a certificate of registration to Applicant for Applicant's Mark because such mark, which is a close approximation of Opposer's CLEVELAND Marks that are an integral part of Opposer's identity, and which points uniquely to Opposer when used in connection with Applicant's Services, would falsely suggest a connection between Applicant, who is not connected with or authorized by Opposer, and Opposer and its goods and services.

18. Further, upon information and belief, Applicant lacked a *bona fide* intent to use Applicant's Mark in commerce in connection with Applicant's Services at the time he filed the Application and instead intended to reserve rights in Applicant's Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel, Maryann E. Licciardi and Justin I. Karasick (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 114 W. 47th Street, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York
July 13, 2021

COWAN LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

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